UNITED STATES COMMISSION ON CIVIL RIGHTS

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Office of the
Staff Director

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U.S. Commission on Civil Rights Personal Assistance Procedures

Purpose

The purpose of this document is to establish the procedures by which the U.S. Commission on Civil Rights (USCCR) handles requests for Personal Assistance Services (PAS) in accordance with 29 C.F.R. § 1614.203(d)(5) and the Rehabilitation Act of 1973. USCCR processes requests for PAS the same way it processes requests for reasonable accommodation.

What are Personal Assistance Services?

PAS are non-medical services that allow individuals with targeted disabilities to perform basic human activities of daily living such as eating, removing and putting on clothing, and using the restroom. PAS are not the same services that assist individuals perform job-related tasks.

Targeted disabilities are a subset of conditions that would be considered disabilities under the Rehabilitation Act. The federal government has recognized that qualified individuals with certain disabilities face significant barriers to employment, which for some people, may include lack of access to PAS in the workplace, that are above and beyond the barriers faced by people with the broader range of disabilities.

The provision of PAS for activities of daily living is not considered a reasonable accommodation, but rather a part of USCCR's affirmative action obligations under Section 501. Under this same provision, federal agencies are prohibited from taking adverse actions against job applicants and employees based on their need for, or perceived need, for PAS.

Making a Request for Personal Assistance Services

Requesting PAS is similar to requesting a reasonable accommodation, but the services requested are not related to job performance. An individual may request PAS by informing their supervisor or the Human Resources Department (HRD) that he or she needs assistance with daily life activities because of a targeted disability. The individual does not need to mention Section 501 or the EEOC's regulations explicitly or use terms such as "PAS" or "affirmative action" to trigger the agency's obligation to consider the request.

HRD oversees USCCR's PAS program. HRD will process requests for PAS in a prompt and efficient manner in accordance with the time frames set forth in these procedures. If a request is given to a manager rather than directly to HRD, the manager should forward the request to HRD (HRDStaff@USCCR.gov) within two business days. HRD will issue a final decision in writing to the requestor. HRD will contact the employee within 10 business days after the request is made (even if the request is initially made to someone else) to begin

discussing the PAS request. HRD will ask the employee what types of PAS he or she needs using the same type of informal, interactive process used for reasonable accommodation. In limited circumstances, the Staff Director will issue a final decision regarding requests for PAS.

Communication is a priority throughout the entire process, but particularly where the specific limitation, problem, or barrier is unclear. Where it is obvious that an employee has a targeted disability and needs the requested services, USCCR may not require the individual to provide medical documentation in support of the request. Both the requestor and the decision maker should work together to identify effective PAS.

Confidentiality

The Rehabilitation Act prohibits the disclosure of medical information except in limited situations. Generally, information that is otherwise confidential under the Rehabilitation Act may be shared only with individuals involved in the PAS process who need to know the information to consider PAS for a specific individual. USCCR will maintain documents related to a request for PAS in the same manner in which it maintains requests for reasonable accommodations.

Time Frame for Processing Requests for PAS

The time frame generally for processing a request for PAS (including implementing the PAS, if approved) is as soon as possible but no later than 20 business days from the date the request is name. This time period includes the 10-day time frame in which the HRD must contact the requestor after a request for PAS is made.

Approval of Personal Assistance Services

If USCCR grants a request for PAS, HRD will provide the requestor with a written explanation of the PAS to be provided and discuss implementation of the PAS. If the request is approved but the PAS cannot be provided immediately, HRD will inform the individual in writing of the projected time frame for providing the service(s).

Denial of Personal Assistance Services

USCCR may deny a request for PAS in certain circumstances. The request for PAS may be denied if:

- the requestor is not an employee of USCCR;
- the requestor does not have a targeted disability;
- the targeted disability does not create a need for PAS;
- the requestor is not able to perform the essential functions of the job with a PAS or any reasonable accommodation;
- the requestor would create a direct threat to safety on the job even with PAS or any reasonable accommodation, or,
- providing PAS would impose an undue hardship on USCCR.

The term "undue hardship" has the same meaning that is has in the reasonable accommodation context. Granting a request for PAS will impose undue hardship on USCCR if it would result in "significant difficulty or expense."

If USCCR denies a request for PAS, HRD will provide the requestor with a written explanation of the reason(s) for the denial, to include why the PAS would result in an undue hardship or why it would be ineffective.

Selecting a PAS Provider

USCCR may use federal employees, independent contractors, or a combination of employees and contractors to perform personal assistance services. If USCCR is hiring a PAS provider who will be assigned to a single individual, and if that individual prefers a particular provider, then USCCR will give primary consideration to the employee's choice to the extent permitted by law. However, it may not be possible to honor the individual's preference in all cases.

An individual may request permission to bring his or her own PAS provider to work as a reasonable accommodation if the individual does not request that the agency assume the cost of providing services. However, if the individual wants the agency to assume the cost of providing the services, the agency may have reasons to choose a different provider.

Inquiries

HRD will serve as the authority on PAS and PAS procedures. Managers, supervisors, and employees should look to HRD as a resource regarding PAS and pose any related concerns or questions to HRD.

USCCR employees wanting further information concerning these Procedures may contact HRD via e-mail at HRDStaff@USCCR.gov.

Mauro Morales
Staff Director

11-25-2019
Date